

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

GENNIE BURLISON)
v.) No. 1:22-0038
KILOLO KIJAKAZI)
Commissioner of)
Social Security)

To: The Honorable William L. Campbell, Jr., District Judge

REPORT AND RECOMMENDATION

Currently pending is a motion filed by the Commissioner of the Social Security Administration (“Commissioner” or “Defendant”) to enter judgment reversing and remanding the Commissioner’s decision denying Plaintiff’s application for social security benefits. (Docket No. 13.) Defendant advises that Plaintiff’s counsel has been contacted and does not object to the motion. (*Id.* at 1.) This matter has been referred to the undersigned, pursuant to 28 U.S.C. § 636(b), for initial consideration and a report and recommendation. (Docket No. 4.) For the reasons that follow, the undersigned Magistrate Judge respectfully recommends that Defendant’s motion (Docket No. 13) be **GRANTED**.

Defendant moves for remand based on a purported need for further evaluation of the medical opinions contained in the administrative record. Specifically, Defendant claims that the Administrative Law Judge (“ALJ”) who issued the underlying administrative opinion did not adequately consider the prior administrative medical findings of the state agency reviewing psychologists with respect to Plaintiff’s ability to interact with others. (Docket No. 13-1 at 1.)

Defendant argues that remand for further evaluation, and not for payment of benefits, is appropriate given the need for further development of the administrative record. *See Brooks v. Comm'r of Soc. Sec.*, 531 F. App'x 636, 644-45 (6th Cir. 2013) (“A judicial award of benefits is proper only where the proof of disability is overwhelming or where the proof of disability is strong and the evidence to the contrary is lacking.”) (quoting *Faucher v. Sec'y of Health & Human Servs.*, 17 F.3d 171, 176 (6th Cir. 1994)).

Because Plaintiff does not oppose Defendant's proposed course of action, the Court recommends that Defendant's motion be granted and that this matter be remanded for further evaluation of Plaintiff's claim. Defendant notes that entry of final judgment by the District Judge remanding this case – should the District Judge adopt the instant Report and Recommendation – will commence the 30-day period during which Plaintiff's counsel may file an application for attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412.

RECOMMENDATION

Accordingly, it is RECOMMENDED that Defendant's motion to remand (Docket No. 13) be GRANTED, the decision of the Commissioner be REVERSED, and this matter be REMANDED for further proceedings.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this Report and Recommendation and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Fed. R. Civ. P. 72(b)(2). Any responses to objections to this Report and Recommendation must be filed within fourteen (14) days of the filing of the objections. *Id.*; M.D. Tenn. R. 72.01(b). Failure to file specific written objections within the specified time can be deemed to represent a waiver of

the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985); *Cowherd v. Milton*, 380 F.3d 909, 912 (6th Cir. 2004) (en banc).



Barbara D. Holmes
BARBARA D. HOLMES
United States Magistrate Judge